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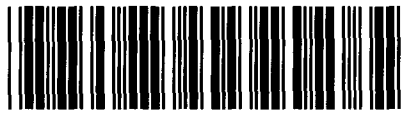

Item Number: 153

Addendum StartPage: 0

CONSOLIDATED SOAH DOCKET 473-19-1265
CONSOLIDATED PUC DOCKET NO. 48785

JOINT APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY LLC, AEP TEXAS INC., AND LCRA TRANSMISSION SERVICES CORPORATION TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR 345-KV TRANSMISSION LINES IN PECOS, REEVES, AND WARD COUNTIES, TEXAS (SAND LAKE TO SOLSTICE AND BAKERSFIELD TO SOLSTICE)	§ § § § § § § § § §	**BEFORE THE STATE OFFICE** **OF** **ADMINISTRATIVE HEARING**

INITIAL BRIEF OF PLAINS MARKETING, L.P. AND PLAINS PIPELINE, L.P.

Catherine J. Webking
State Bar No. 21050055
cwebking@scottdoug.com
Stephanie Kover
State Bar No. 24102042
skover@scottdoug.com
SCOTT DOUGLASS & MCCONNICO LLP
303 Colorado Street, Suite 2400
Austin, Texas 78701
512.495.6337
512.495.6399 (facsimile)

ATTORNEYS FOR PLAINS MARKETING, L.P. AND PLAINS PIPELINE, L.P.

153

TABLE OF CONTENTS

FIGURES AND TABLES

CONSOLIDATED SOAH DOCKET 473-19-1265
CONSOLIDATED PUC DOCKET NO. 48785

JOINT APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY LLC, AEP TEXAS INC., AND LCRA TRANSMISSION SERVICES CORPORATION TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR 345-KV TRANSMISSION LINES IN PECOS, REEVES, AND WARD COUNTIES, TEXAS (SAND LAKE TO SOLSTICE AND BAKERSFIELD TO SOLSTICE)	**§**	**BEFORE THE STATE OFFICE** **OF** **ADMINISTRATIVE HEARING**

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TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COMES NOW, Plains Marketing, L.P., and Plains Pipeline, L.P. (collectively, "Plains Pipeline" or "Plains"), and files this Initial Brief. Plains requests that the Administrative Law Judges recommend approval of one of the supported routes that utilizes links B2-B3, either Route 320 or Route 325 (with or without modification). Plains opposes Route 41 and any route that utilizes links B1-C3. While Plains supports use of links B2-B3 as recommended by Texas Parks and Wildlife Department ("TPWD"), Plains opposes TPWD's recommended Route 324. Plains would respectfully show as follows:

I. ROUTING

A. Plains Pipeline's tracts and pipeline facilities.

Plains Pipeline's property and pipelines are shown in **Figure 1**, taken from Applicants' Intervenor Map.[1]

[1] Intervenor Map, Oncor/AEPTX Ex. 10A. All references to Figures 1 and 2 incorporate this citation.

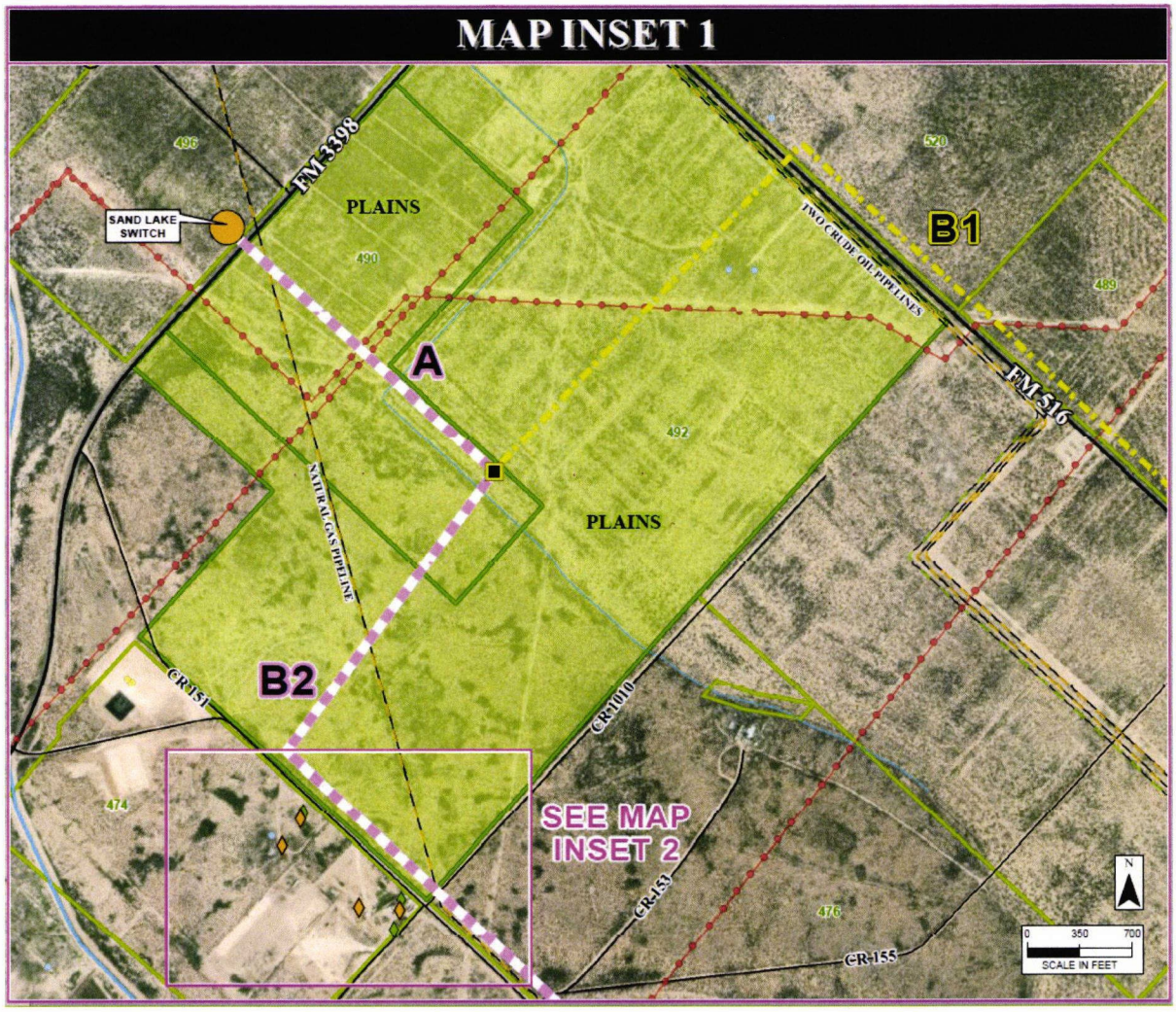

Figure 1: The Plains Property—Selection from Intervenor Map, Oncor/AEP Ex. 10A.
Light green shading = Plains' property (intervenor). Green lines = tract boundaries. Orange-black dashed lines = pipelines. Red dotted lines = existing transmission lines. Pink-white dashed line = proposed transmission line, link A and link B2 (preferred by Plains and Applicants). Yellow dashed line = link B1 (competing alternative to link B2).

As shown shaded in light green, and according to the Application, Plains owns the property immediately adjacent to the Sand Lake Switch (tract nos. 490 and 492).[2] Plains also owns and operates two crude oil pipelines in the area—shown by the orange-black dashed lines that parallel the northeast edge of Plains' property along FM 516.

[2] *See* Application, Oncor/AEPTX Ex. 1, Attach. 14 at 5.

As indicated on **Figure 1**, the pipelines continue to the north where they connect to Plains' nearby central processing facility and trucking station (not shown) and also to the south (end terminus not shown).[3] In addition to the two crude oil pipelines, a natural gas pipeline diagonally crosses the western side of Plains' property.

Plains' property is already burdened by two existing transmission lines, shown on **Figure 1** by red dotted lines.[4] The existing transmission lines cross the center of Plains' property horizontally and diagonally, and do not parallel Plains' property boundaries.

B. All proposed routes cross Plains' property. The B2-B3 path limits adverse impacts on Plains' surface estate and pipelines.

As shown in **Figure 1**, *supra*, by the pink-white dashed line, link A, which is utilized by every proposed route, exits the Sand Lake Switch to the southeast and vertically bisects Plains' property. Link A does not follow Plains' property boundary.[5]

From link A, there are two routing options: (1) link B2 (and then B3) to the southwest, or (2) link B1 (and then C3) to the northeast. Like link A, both options cross Plains' property without following the property boundary.[6] However, as set forth below, the B2-B3 option has far less negative impact on Plains' property. B2-B3 avoids the creation of multiple pipeline crossings and transmission-line-encircled pockets on Plains' property that links B1-C3 require. This, along with their superior performance as to the Commission's routing factors (*see* Section

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[3] *See* Oncor/AEPTX Ex. 10A; Direct Testimony of Charles H. Midgley, Plains Pipeline Ex. 1 (Attch. 1) at 12.

[4] *See also* Tr. at 53:5-8 (Cross of Applicants' witness Mr. Russel J. Marusak).

[5] *See also id.* at 53:16-25 (Marusak Cross) (testifying that when he designed link A, as well as competing links B1 and B2, he was not aware that Plains owned both tract nos. 490 and 492, and that none of those links, until they get to the roadways, follow property lines).

[6] *See also id.*

I.E, *infra*), including that B2-B3 costs approximately $1.6 million *less* then B1-C3, weighs in favor of utilizing B2-B3. Plains supports B2-B3, and opposes B1-C3.

1. Link B2 (and then B3): Continuing to follow the pink-white dashed line on **Figure 1**, link B2, which is preferred by Plains and Applicants (as well as intervenors Concho,[7] Oxy,[8] Mr. Alan Zeman,[9] and Forrister[10]), crosses Plains' property to the southwest (without following any property lines), until it comes to CR 151.[11] Link B2 then turns 90 degrees to and continues to the southeast, paralleling the east side of CR 151, and remaining on Plains' property. Link B2 then connects to link B3, and continues paralleling CR 151 (shown on **Figure 2**, below). Of the two options, B2-B3 has less negative impact on Plains' property, and Plains supports B2-B3. Plains is also in discussions with Applicant Oncor regarding some potential modifications to links A and B2 on Plains' property that would mitigate the impact to the Plains property and enhance the compliance of the line with several of the applicable routing criteria.

2. Link B1 (and then C3): The competing option, link B1, is shown on **Figure 1** by the yellow dashed line. From link A, link B1 bisects Plains' property to the northeast, without following any property boundaries.[12] Link B1, interacting with the two existing transmission

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[7] "Concho" refers to intervenor COG Operating, LLC. *See* Rebuttal Testimony of Brent Lowery, Concho Ex. 2 at 9:13-21 (supporting Route 325 modified, which uses B2-B3).

[8] "Oxy" collectively refers to intervenors Occidental Permian Ltd.; Oxy Delaware Basin, LLC; Oxy USA, Incorporated; Oxy USA WTP LP; Houndstooth Resources, LLC; and Occidental West Texas Overthrust, Incorporated. *See* Rebuttal Testimony of Albert Mendoza, Oxy Ex. 3 at 3:3-4:3 (supporting Route 325 modified, which uses B2-B3).

[9] *See* Direct Testimony of Intervenor Alan Zeman, Zeman Ex. 1 at 8:13-14 (supporting Route 320, which uses B2-B3).

[10] "Forrister" refers to Forrister Generation Skipping Trust. Direct Testimony of Intervenor Forrister Generation Skipping Trust, Forrister Ex. 1 at 8:19-20 (supporting Route 320, which uses B2-B3).

[11] *See also* Tr. at 53:16-25 (Marusak Cross).

[12] *See also id.*

lines on Plains' property, fragments Plains' property and creates three transmission-line-encircled pockets.[13] In these B1-fragmented areas of Plains' property, Plains would have to operate within pockets that are significantly narrowed by the transmission line rights-of-way.[14] Making its way across the middle of Plains' property, link B1 crosses one of the existing transmission lines on Plains' property, Plains' two crude oil pipelines, and then crosses FM 516.

After crossing FM 516, link B1 turns 90 degrees, and continues to the southeast, paralleling FM 516. At the same time, link B1 also parallels Plains' pipelines for approximately half one mile.[15] In addition, link B1 crosses one of the existing transmission lines near a turn in that line, and then, just a short distance later, crosses the other existing transmission line.[16] Link B1 then continues further southeast where, turning 90 degrees counter-clockwise, it connects to link C3 (shown on **Figure 2**).[17] Link C3 proceeds southwest, crosses Plains' two crude oil pipelines for a second time—this crossing is not at a 90-degree angle—and terminates at the same location as link B3 (shown on **Figure 2**).[18]

As shown on **Figure 2**, also taken from Applicants' Intervenor Map, Plains is the only property owner on links B2-B3 or B1-C3 that has intervened in this case. As indicated by the lack of light green shading on any of the other tracts, none of the other property owners affected by any of these segments are parties to this docket.

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[13] *See also* Tr. at 55:5-56:23 (Cross of Applicants' witness Wilson P. Peppard) (describing the pockets).

[14] *Id.*

[15] *See also* Plains Pipeline Ex. 1 at 10:12-18 (Midgley Direct); Rebuttal Testimony of Russel J. Marusak, Oncor/AEPTX Ex. 11 at 3:24-26.

[16] *See* Tr. at 59:19-60:1 (Peppard Cross).

[17] Oncor/AEPTX Ex. 10A.

[18] *Id.*

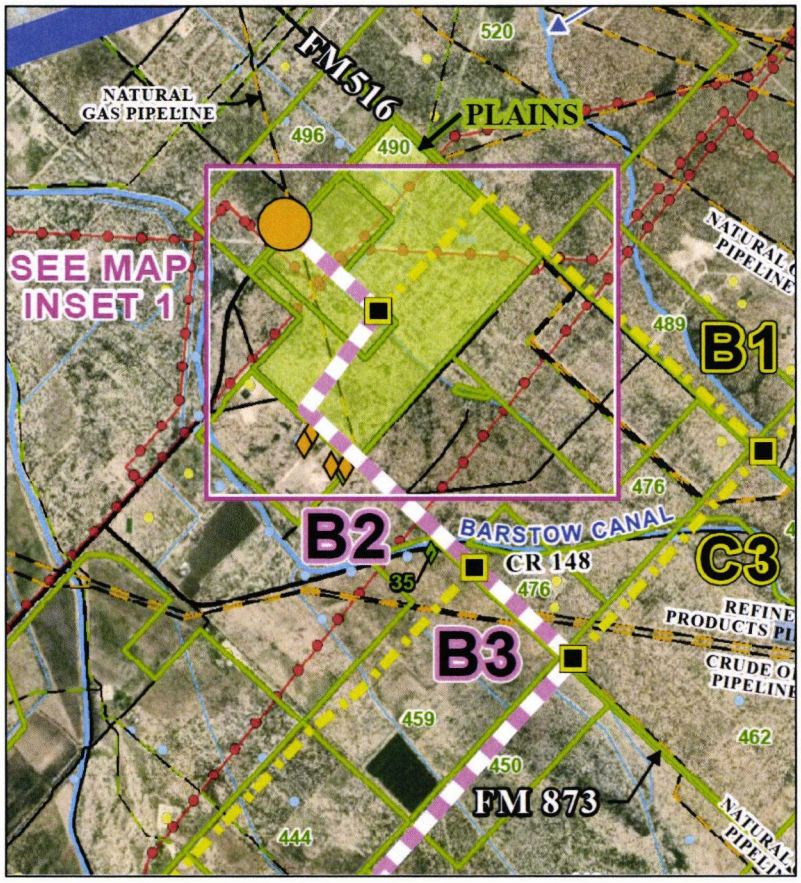

Figure 2: The Competing Links—Selection from Intervenor Map, Oncor/AEP Ex. 10A.
Light green shading = Plains' property (intervenor). Green lines = tract boundaries. Orange-black dashed lines = pipelines. Red dotted lines = existing transmission lines. Pink-white dashed line = proposed transmission line, link A, links B2-B3 (preferred by Plains and Applicants), and part of link C2 (which is used by all supported routes). Yellow dashed line = links B1-C3 (competing alternative to links B2-B3).

Thus, in summary, B1-C3 introduces a number of engineering constraints that are in addition to those constraints associated with links B2-C3. Routes utilizing links B1-C3 cross existing transmission lines three times and in a clustered manner; cross Plains' two crude oil pipelines two times, and one of those crossings is at an odd angle; and result in three transmission-line-encircled pockets on Plains' property. Plains opposes B1-C3 due its negative impacts, and instead supports B2-B3. Although B2-B3 results in more line being located on Plains' property than for B1-C3, Plains prefers B2-B3 because it avoids the clustered crossings and drastic pocket-effect that results from link B1's interaction with the existing transmission

lines (further addressed in Sections I.E.7, I.E.9, and I.E.10, *infra*), and better avoids Plains' existing pipeline facilities, (further addressed in Sections I.E.1, I.E.7, and I.E.9, *infra*).

C. Habitable structure count should not be a dominant factor in selecting between links B2-B3 or B1-C3, or among the supported routes.

The PUC Staff is the only party who filed testimony favoring a route that utilizes links B1-C3 instead of links B2-B3. Staff witness Mr. Bautista filed testimony in support of Route 41 (utilizing links B1-C3) rather than the complimentary Route 320 (utilizing links B2-B3). However, the Staff witness indicated he did not consider the disparate impacts to the Plains property in recommending Route 41.[19] The witness made clear that his recommendation was focused solely on the difference in the habitable structure count associated with these two routing options.[20] The Staff witness also testified that he did not consider the nature of the features counted as habitable structures despite the designations of such in the record evidence.[21] The vast majority of features counted as habitable structures at issue here are not permanent structures and are instead "mobile living units."[22] The evidence discussed further below shows that a count of structures that are transient in nature should not outweigh the other factors that favor utilizing links B2-B3.

Applicants' expert Ms. Perkins assessed the nature, location, and character of the habitable structure counts provided in the application.[23] For links B2-B3, no habitable structures

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[19] Tr at 118:18-119:10, 112:21-123:4, 123:12-19, 130:11-131:1 (Cross of Staff's witness David Bautista).

[20] *Id.*

[21] *Id.*

[22] *See* Oncor/AEPTX Ex. 1 at 22-23.

[23] *See* Direct Testimony of Brenda J. Perkins, Oncor/AEPTX Ex. 7 at 8-12, Exs. BJP-6 to BJP-8; Rebuttal Testimony of Brenda J. Perkins, Oncor/AEPTX Ex. 13 at 4:9-23.

are located within any of the proposed rights-of-way.[24] While thirty-five habitable structures were counted as within 500 feet of the link B2's centerline, only three have permanent foundations.[25] The other thirty-two, grouped in clusters and classified as "mobile living units" ("MLU") are "temporary construction housing" in the "travel trailer style."[26] In this area, where the oil and gas industry is prominent, such clusters of apparently temporary housing as referred to as a "man camp"—which temporarily houses oil and gas workers at a location while there is an active operation.[27] Here, as shown in **Figure 3**, the man camp structures lack any permanent foundation, are not connected to utilities, have wheels—and are intended to be relocated.[28]

Figure 3: The Structures—Selection from Perkins Direct Testimony, Ex. BJP-6.

[24] Oncor/AEPTX Ex. 7 at 9 (Perkins Direct).

[25] Oncor/AEPTX Ex. 1 at 22-23; *see also* Oncor/AEPTX Ex. 7 at 9 (Perkins Direct); Oncor/AEPTX Ex. 13 at 4:9-23 (Perkins Rebuttal).

[26] Oncor/AEPTX Ex. 1 at 22-23; *see also* Oncor/AEPTX Ex. 7 at 9 (Perkins Direct); Oncor/AEPTX Ex. 13 at 4:9-23 (Perkins Rebuttal).

[27] Tr. at 64:6-65:7 (Perkins Cross) (describing the term "man camp"), 124:17-21 (Bautista Cross) (testifying that he understands a man camp to be "cluster . . . where people go and workers mainly go and stay . . . while they work out there"); Oncor/AEPTX Ex. 13 at 4:9-23 (Perkins Rebuttal) ("As discussed in my direct testimony, 32 of the habitable structures . . . are attributable to two clusters of newly-developed mobile living units (commonly referred to as 'man camps') along Link B2.").

[28] Tr. at 64:6-65:7 (Perkins Cross); Oncor/AEPTX Ex. 7 at 9 (Perkins Direct).

The trailers were identified as within 500 feet of the centerline of link B2 on September 11, 2018, the date of the Applicants' aerial survey.[29] There is no evidence that any of the trailers remain at that location today.[30] The man camp may have already moved.[31] On cross-examination, Ms. Perkins testified to the ephemeral nature of these pop-up camps:

> . . . [W]hen I describe these habitable structures as mobile units . . . they have wheels on them, they have hitches, there's no utilities running to these units.··So they are very temporary in nature, and the [recent Oncor] project north of this that I was speaking to earlier, we've gone out and there's been, you know, a number there.··And then we go out a couple of weeks later and there might be -- in this one instance, there was a third less at the time.
>
> . . . [M]obile areas like this are commonly in this area of West Texas referred to as man camps or places that have mobile units that construction workers use that are around where they . . . happen to be working.··And then once that area is developed and they are done in that area, then they take their mobile living unit and transport it to where they are going next. [32]

As Ms. Perkins' testimony shows, for these clearly temporary structures, there is little risk of the type of prolonged electromagnetic exposure contemplated in the policy of prudent avoidance.[33]

Even if trailers remained on the property for a long period of time, the tract on which the trailers were located (tract no. 474) is large.[34] There is ample room for the trailers to be relocated to a different area of the tract that is much farther away from proposed link B2 than 500 feet.[35] Even at the time they were counted, many of the trailers barely came within 500 feet

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[29] Tr. at 64:6-65:12 (Perkins Cross).

[30] *Id.* at 64:6-65:12, 66:15-20 (Perkins Cross).

[31] *Id.*

[32] *Id.* at 64:11-65-7 (Perkins Cross).

[33] *See* 16 TAC § 25.101(a)(4), (b)(3)(B)(iv).

[34] Oncor/AEPTX Ex. 10A (showing the size of Tract No. 474); Tr. at 65:23-66:20 (Perkins Cross); *see* **Figure 1**, supra.

[35] *See* Oncor/AEPTX Ex. 10A; Tr. at 65:23-66:20 (Perkins Cross); **Figure 4**, infra (partially showing the border of tract no. 474 in green and the empty room on the tract).

of proposed link B2.[36] For example, structures nos. 9-20 were already located at least from 439 feet to 484 feet away.[37]

As shown on **Figure 4** (taken from Plains Pipeline Exhibit 2), Link B2 is not located on the same property as any of the counted structures, permanent or temporary, but is on the other side of CR 151.[38] In addition, **Figure 4** depicts an approximation of a minor modification to link B2 was discussed at the hearing on the merits.[39] The minor modification would move the line even farther east so that it parallels the east side of the natural gas pipeline that is depicted on the underlying map from the Application.[40] Such a modification would increase the distance, and move the line more than 500 feet away, from the location of at least all but two of the permanent structures.[41]

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[36] *See* Oncor/AEPTX Ex. 1 at 22.

[37] *Id.*; *see also* Tr. at 81:23-82:12, 82:22-83:4 (Perkins Cross) (confirming that for the mobile unit clusters, the distance reported in the habitable structure table is the closest distance of any structure in the cluster, and that other structures in the cluster may have been farther away).

[38] Plains Pipeline Ex. 2 at 2 (Plains Pipeline Inset 2 Demonstrative) (showing link B2 (yellow dashed line) on the opposite side of CR 151); *see also* Oncor/AEPTX Ex. 10A. All references to **Figure 4** incorporate this citation.

[39] Tr. at 82:13-21 (Perkins Cross).

[40] Tr. at 57:11-58:11 (Peppard Cross) (confirming likely feasibility of minor modification).

[41] *See* Tr. at 82:13-21 (Perkins Cross), 124:22-126:10 (Bautista Cross); Oncor/AEPTX Ex. 10A.

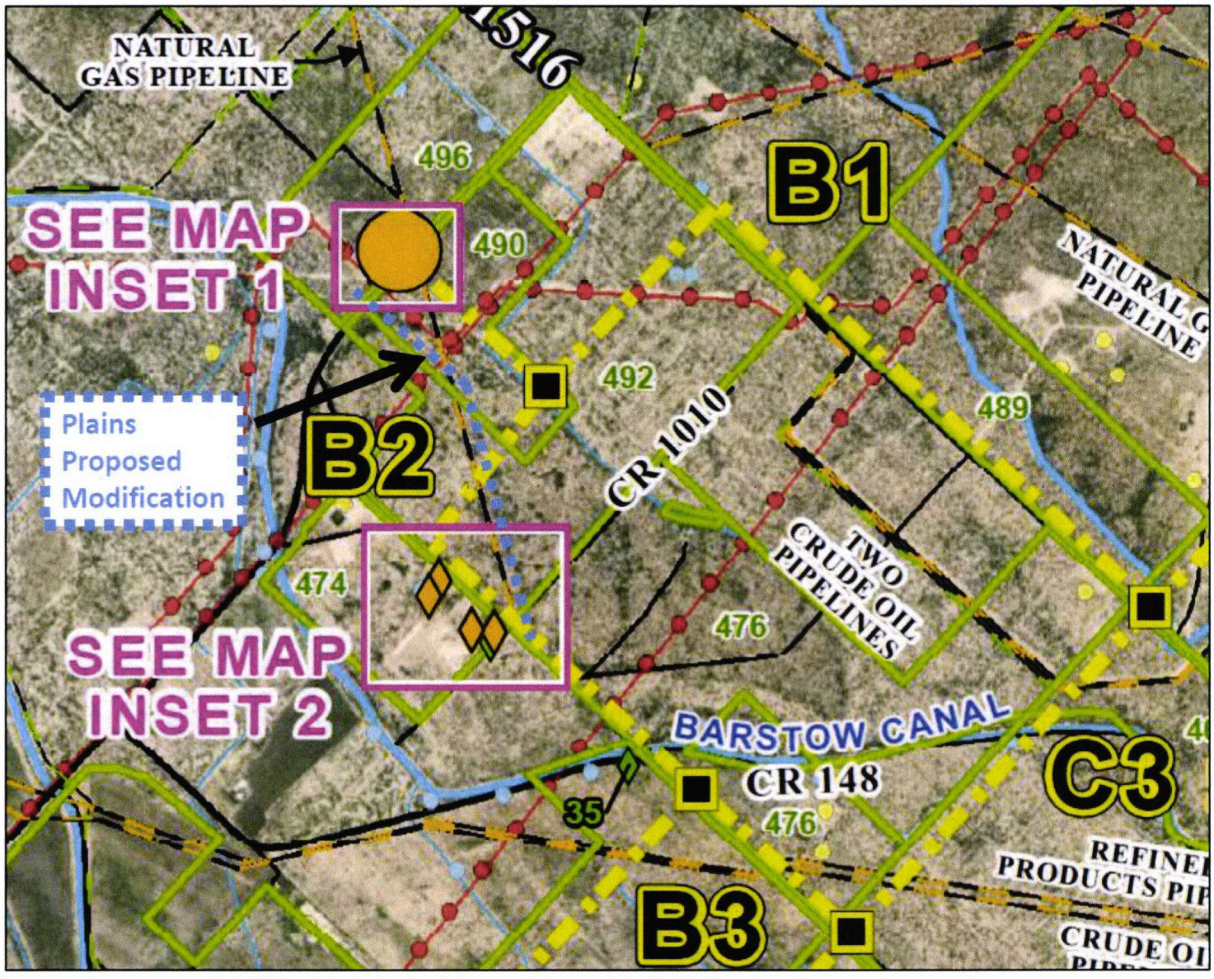

Figure 4: Proposed Minor Modification—Selection from Plains Pipeline Ex. 2.
Blue dashed line = the Plains-proposed minor modification of links A and B2. Plains' property is tract nos. 490 and 492. Green lines = tract boundaries. Orange-black dashed line = pipelines. Orange numbered diamonds = habitable structure clusters, all of which here are mobile living units.[42] Green numbered diamonds = habitable structures.[43]

D. Supported-Route Summary: Routes 320 and 325 use links B2-B3 and are supported by Plains. Plains opposes Route 41, which uses links B1-C3.

The hearing on the merits focused on three competing routes: (a) Route 320 (with and without proposed modifications), which departs the Sand Lake switching station using links B2-

[42] *See* Oncor/AEPTX Ex. 1 at 22-23.

[43] *See id.*

B3 and then proceeds south through a central corridor of the study area; (b) Route 325, (with and without proposed modifications), which also uses links B2-B3 and then proceeds south along a more western corridor; or (c) Route 41 (with and without proposed modifications), which, instead of using links B2-B3, uses links B1-C3, but is otherwise identical to Route 320.[44] In addition, the route TPWD concluded would minimize impact to fish and wildlife, Route 324, also uses links B2-B3, but this route was not supported by any other intervenor and was not a focus at the hearing.[45]

E. Preliminary Order Issue #4: A supported route utilizing links B2-B3, rather than links B1-C3, is the best alternative under the factors set forth in PURA[46] § 37.056(c) and 16 TAC § 25.101(b)(3)(B).

Because all of the supported routes (and all routes proposed in the application) either take link B2 to the west or take link B1 to the east, selection between a western departure (B2-B3) and an eastern departure (B1-C3) is a threshold to route selection. Plains' briefing focuses on this threshold determination. In this case, the key factors that distinguish the competing departures (B2-B3 vs. B1-C3) are community values, engineering constraints, and cost. When these distinguishing factors are considered, the evidence shows B2-B3, which is utilized by supported Routes 320 and 325, and which minimizes length of line and reduces cost by approximately $1.6 million, is the best alternative under the requirements of PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B).

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[44] Oncor/AEPTX Ex. 1, Attach. 1 (App. D) at D-2, D-10; *see* Oncor/AEPTX Ex. 11 at 3-5 (Marusak Rebuttal) (summarizing the modifications proposed by Concho and Oxy, none of which are to links B2-B3 or B1-C3).

[45] Direct Testimony of David Bautista, Staff Ex. 2 (Attach. DB-2) at 40-41 (TWPD Letter to Karen Hubbard).

[46] Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-58.303 (West 2016), §§ 59.001- 66.017 (West 2007 & Supp. 2016) (PURA).

1. *Community Values*: B2-B3 avoids pipeline facilities and better meets community values.

Use of B2-B3 better meets the PURA factor of community values because it minimizes impacts to oil and gas development and related facilities. "In recent years, there has been an explosion of oil and gas development in Ward, Reeves, Pecos, and neighboring counties."[47] Pipelines, which are "like veins," fulfill "a key role in the State of Texas's oil and gas development" and are necessary to get produced oil and gas to the market."[48] In this case, public comment shows that this community values economic development from oil and gas, and values avoiding impacts to oil and gas facilities, including pipelines.

Expressions of this value are (1) the public participation meeting, where only nine attendees signed-in, the only questionnaire received recommended better avoiding a pipeline, and the local official who attended followed the meeting by providing pipeline location data;[49] (2) the intervention of Plains Pipeline;[50] (3) the credible testimony of Plains witness Mr. Charles Midgley concerning the importance of, and need to avoid disturbance to, pipelines;[51] (4) the intervention of major oil and gas operators Concho and Oxy and the credible testimonies of their

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[47] Plains Pipeline Ex. 1 at 6:15-16 (Midgley Direct); *see also* Rebuttal Testimony of Wilson P. Peppard, Oncor/AEPTX Ex. 12 at 5:8-12 ("As the parties and the Commission know, the Permian Basin and Delaware Basin areas of West Texas are experiencing dynamic growth due to oil and gas related activities. Every day, new wells are being drilled and new pipelines are being built throughout the area."); Rebuttal Testimony of Thomas W. Reynolds III, Oncor/AEPTX Ex. 14 at 3:30-4:4 (similar testimony); Direct Testimony of Terry Burkes, Concho Ex. 1 at 6:5-6 ("Oil and gas development is West Texas is rapid . . . and development continues to increase.").

[48] Plains Pipeline Ex. 1 at 6:13-18 (Midgley Direct).

[49] Oncor/AEPTX Ex. 1, Attach. 1, at 5-1 to 5-2.

[50] Plains Marketing, L.P., and Plains Pipeline, L.P.'s Motion to Intervene (Dec. 21, 2018); *see* Oncor/AEPTX Ex. 10A (highlighting Plains' property); *see also* **Figure 1**, supra.

[51] Plains Pipeline Ex. 1 at 7-10 (Midgley Direct).

witnesses concerning avoidance of oil and gas infrastructure;[52] and (5) the intervention and testimony of property owners who also seek avoidance of impacts to oil and gas infrastructure.[53]

As Mr. Midgley testified, routes that require pipeline crossings and crossing pipelines with heavy equipment "risk disruption, damage, accident, spills, environmental contamination, and adverse economic impact to Plains Pipeline and on Texas's economy."[54] Damage can occur to the underground pipelines by construction equipment that, due to weight of the equipment, permanently distorts the shape of the pipelines.[55] Induced voltage by the power lines can interfere with the pipeline's cathodic protection system.[56] Thus, pipeline crossings should be avoided.[57] Further, "if a pipeline must be crossed, the crossings should be as close to 90 degrees as possible to the pipeline in order to minimize the induced voltage that interferes with the pipeline's cathodic protection system that protects the pipeline from corrosion. The purpose of this requirement is to mitigate the adverse impact on the pipeline and reduce risk."[58]

Of the two competing departures (B2-B3 vs. B1-C3), B2-B3 minimizes pipeline impacts and impacts to the associated trucking station. Were links B1-C3 selected, Plains' Wolfbone to Barstow crude oil pipelines would be crossed two times, and one of those crossing would not be

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[52] *See generally* Concho Ex. 1 (Burkes Direct); Concho Ex. 2 (Lowery Rebuttal); Direct Testimony of Albert Mendoza, Oxy Ex. 2; Oxy Ex. 3 (Mendoza Rebuttal).

[53] Forrister Ex. 1 at 7:8-12, 8:19-20 (Forrister Direct) (describing how a transmission line on its property could impact a "proposed oil well and disposal well" and supporting Route 320, which utilizes the B2-B3 departure as the "best route for the community"); *see also* Zeman Ex. 1 at 8:13-14 (Zeman Direct).

[54] Plains Pipeline Ex. 1 at 7:13-8:7 (Midgley Direct).

[55] *Id.*

[56] *Id.*

[57] *Id.* at 8:19-25 (Midgley Direct).

[58] *Id.*

at a 90-degree angle.[59] Link B1 is in much closer proximity to the Plains trucking and pipeline station.[60] In addition, link B1 closely parallels that pipeline for approximately half one mile.[61] Because of the terrain, it is more likely than not that these links will require heavy equipment to cross the pipeline during construction.[62] B2-B3 avoids these crossings altogether.[63] While links B2-B3 as currently proposed cross a natural gas pipeline that runs diagonally across the west side of Plains' property, a minor modification that may eliminate that crossing was discussed at the hearing on the merits.[64]

No witness, intervenor, or commenter expressed any opinion that links B2-B3 would more negatively impact economic development, or any other community value, than links B1-C3. Rather, the landowner intervenors, "being very familiar with the area," testified in support of Route 320—a route that uses the B2-B3 departure—as "the best route for the community."[65] Similarly, Applicants' expert witness Brenda Perkins concluded Route 320 does not significantly impact community values.[66] The routes supported by Concho and Oxy, as well as the route

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[59] Oncor/AEPTX Ex. 10A; *see also* Plains Pipeline Ex. 1 at 10:12-18 (Midgley Direct).

[60] Oncor/AEPTX Ex. 10A; *see also* Plains Pipeline Ex. 1 at 10:12-18 (Midgley Direct).

[61] *See* Oncor/AEPTX Ex. 10A.

[62] Plains Pipeline Ex. 1 at 10:12-18 (Midgley Direct).

[63] Oncor/AEPTX Ex. 10A; *see also* Figure 1, *supra.*

[64] The minor modification would move link B2 so that it parallels the east side of the natural gas pipeline, and may eliminate at least one of the crossings of that pipeline. *See* Tr. at 57:11-58:11 (Peppard Cross) (confirming likely feasibility of minor modification).

[65] Forrister Ex. 1 at 7:8-12, 8:19-20 (Forrister Direct) (supporting Route 320, which utilizes the B2-B3 departure as the "best route for the community"); Zeman Ex. 1 at 8:13-14 (Zeman Direct) ("Being very familiar with the area, we believe Route 320 is the best route for the community and prudent avoidance.").

[66] Oncor/AEPTX Ex. 7 at 10:16-11:2 (Perkins Direct).

suggested by TPWD, also use links B2-B3.[67] Although Staff witness Mr. Bautista testified in support of Route 41 which uses links B1-C3, at hearing he clarified that he does not consider it to perform better than Route 320, and thus links B2-B3, as to the factor of community values.[68]

Thus, consideration of the entirety of the record evidence as a whole shows that, of the two competing departures, B2-B3 minimizes pipeline impacts and best preserves community values.[69] Plains also supports other modifications on Route 320 or Route 325 that may be proposed by Concho and Oxy as those modifications support the values expressed by the community of avoiding interference with oil and gas development.

2. *Transmitters, Airports, Airstrips, and Irrigation Systems*: B2-B3 and B1-C3 perform equally.

B2-B3 and B1-C3 perform similarly as to avoidance transmitters, airports, airstrips, and irrigation systems.[70] Applicants' witness Ms. Perkins concluded that Route 320, which uses B2-B3, does not significantly impact communication facilities, airports, or cropland irrigated by traveling irrigation systems.[71] Staff witness Mr. Bautista confirmed that he does not consider Route 41 (links B1-C3) superior to Route 320 and links B2-B3 in avoidance of these categories of structures.[72]

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[67] *See* Concho Ex. 2 at 9:13-21 (Lowery Rebuttal) (Route 325 modified); Oxy Ex. 3 at 3:3-4:3 (Mendoza Rebuttal) (Route 325 modified); Staff Ex. 2 (Attach. DB-2) at 40-41 (TWPD Letter to Karen Hubbard, Route 324).

[68] Tr. at 119:5-14 (Bautista Cross) (confirming his opinion that Route 41 is the same as Route 320 in consideration of community values).

[69] *See* PURA § 37.056(c)(4)(A); 16 TAC § 25.101(b)(3)(B).

[70] *See* Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4, E-30.

[71] Oncor/AEPTX Ex. 7 at 10:16-11:2 (Perkins Direct).

[72] Tr. at 118:24-119:10 (Bautista Cross).

3. *Recreational and Park Areas*: B2-B3 and B1-C3 perform equally.

B2-B3 and B1-C3 perform similarly as to recreational and park areas.[73] No parks or recreational areas are located within 1,000 feet of the centerline of any proposed route, and thus are not located with 1,000 feet of either departure.[74] Applicants' witness Ms. Perkins concluded that Route 320, which uses B2-B3, does not significantly impact recreational and park areas.[75] Staff witness Mr. Bautista confirmed that he does not consider Route 41 (links B1-C3) superior to Route 320 and links B2-B3 as to this factor.[76]

4. Historical and Aesthetic Values

a. *Historical Values*: B2-B3 avoids two cultural resource sites.

B2-B3 performs slightly better than B1-C3 as to preserving historical values.[77] If links B1-C3 are utilized, the route centerline comes within 1,000 feet of three previously-recorded historical, archeological, or cultural resource sites.[78] Utilizing links B2-B3 reduces that to one site.[79] Applicants' witness Ms. Perkins concluded that Route 320, which uses B2-B3, does not significantly impact known cultural resource sites or historical values.[80] Staff witness Mr.

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[73] *See* PURA § 37.056(c)(4)(B); 16 TAC § 25.101(b)(3)(B).

[74] Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-1 to E-38.

[75] Oncor/AEPTX Ex. 7 at 10:16-11:2 (Perkins Direct).

[76] Tr. at 118:24-119:10 (Bautista Cross).

[77] *See* PURA § 37.056(c)(4)(C); 16 TAC § 25.101(b)(3)(B).

[78] Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4.

[79] *Id.* at E-30.

[80] Oncor/AEPTX Ex. 7 at 10:16-11:2 (Perkins Direct).

Bautista confirmed that he does not consider Route 41 (links B1-C3) superior to Route 320 and links B2-B3 as to this factor.[81]

b. *Aesthetic Values*: B2-B3 reduces length and eliminates road crossings.

Utilizing links B2-B3 better preserves aesthetic values.[82] B2-B3 minimizes length, and thus reduce the length of visible line.[83] B2-B3 also eliminates two back-and-forth crossings of FM 516 that B1-C3 requires.[84] Applicants' witness Ms. Perkins concluded that Route 320, which uses B2-B3, does not significantly impact aesthetic values.[85] Although Staff witness Mr. Bautista testified in support of Route 41 which uses links B1-C3, at hearing he clarified that he does not consider it to perform better than Route 320, and thus links B2-B3, as to the factor of aesthetic values.[86]

5. *Environmental Integrity*: B2-B3, with its reduced length, outperforms B1-C3.

Links B2-B3 outperform links B1-C3 for the factor of environmental integrity.[87] Links B2-B3 minimize length, and further outperform the B1-C3 departure for the assessment categories of length across rangeland pasture and length across potential wetlands.[88] The route

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[81] Tr. at 118:24-119:10 (Bautista Cross).

[82] *See* PURA § 37.056(c)(4)(C); 16 TAC § 25.101(b)(3)(B).

[83] Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4, E-30 (utilizing links B2-B3, as opposed to B1-C3, reduces length by 6,148 feet).

[84] *See* Oncor/AEPTX Ex. 10A.

[85] Oncor/AEPTX Ex. 7 at 10:16-11:2 (Perkins Direct).

[86] Tr. at 118:24-119:10 (Bautista Cross).

[87] *See* PURA § 37.056(c)(4)(D); 16 TAC § 25.101(b)(3)(B).

[88] Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4, E-12.

that TPWD concluded would minimize impacts to fish and wildlife, Route 324, utilizes B2-B3 and shortness of route length influenced TWPD's conclusion.[89] Similarly, Applicants' expert witness Ms. Perkins concluded Route 320, which utilizes links B2-B3, does not significantly impact environmental integrity.[90] Staff witness Mr. Bautista confirmed that he does not consider Route 41 (links B1-C3) to perform better than Route 320 and links B2-B3 as to the factor of environmental integrity.[91] Thus, the record evidence shows that, of the two competing departures, B2-B3 better preserves environmental integrity.[92]

6. *Probable Improvement of Service or Lowering Costs to Customers in the Area*: B2-B3 and B1-C3 perform similarly.

B2-B3 and B1-C3 perform similarly as to the factor of probable improvement of service or lowering of costs to customers in the area.[93] However, use of links B1-C3 increase the cost of the project by approximately $1.6 million.[94]

7. *Engineering Constraints*: B2-B3 avoids clustered transmission line crossings and pipeline crossings at odd angles.

The B2-B3 departure minimizes engineering constraints and performs better than B1-C3 as to this factor, because it avoids transmission line crossings and pipeline crossings.[95]

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[89] Staff Ex. 2 (Attach. DB-2) at 40-41 (TWPD Letter to Karen Hubbard).

[90] Oncor/AEPTX Ex. 7 at 10:16-11:2 (Perkins Direct).

[91] Tr. at 118:24-119:10 (Bautista Cross).

[92] *See* PURA § 37.056(c)(4)(D); 16 TAC § 25.101(b)(3)(B).

[93] *See* PURA § 37.056(c)(4)(E); 16 TAC § 25.101(b)(3)(B); Tr. at 118:24-119:10 (Bautista Cross) (confirming that he did not consider Route 41 (links B1-C3) to be superior to Route 320 (links B2-B3) as to this factor).

[94] *See* Oncor/AEPTX Ex. 1, Attach. 3 at 1, 3 (costs).

[95] *See* 16 TAC § 25.101(b)(3)(B).

Transmission line crossings and pipeline crossings, while not prohibitive, are engineering constraints.[96] Here, two existing transmission lines cross Plains' property.[97] Link B2 creates three crossings of those lines.[98] First, link B1 (1) crosses one of the lines near the middle of Plains' property.[99] Then, while paralleling FM 516 and Plains' pipelines, link B1 makes (2) a second crossing of one of the existing transmission lines—near a turn in that line, and one of its existing structures.[100] Just a short distance later, link B1 then (3) crosses the other existing transmission line.[101] One of link B2's structures is designed to be located near this crossing.[102] For transmission line crossings, good utility practice is to not cross the lines at a structure, but in the middle of the span of line between two structures.[103] Utilizing links B2-B3 altogether eliminates these clustered, near-structure crossings.

Links B1-C3 also introduce two crossings of Plains' crude oil pipelines, and parallel the pipelines for approximately one-half of a mile. As Mr. Midgley testified, it is best to avoid pipeline crossings altogether, but "if a pipeline must be crossed, the crossings should be as close to 90 degrees as possible."[104] One of these pipeline crossings, however, is near a bend in the

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[96] Tr. at 54:23-55:4 (Peppard Cross); *see also* Direct Testimony of Wilson P. Peppard, Oncor/AEPTX Ex. 6 at 9:13-16.

[97] Oncor/AEPTX Ex. 10A; *see* **Figure 1**, supra; *see also* Tr. at 53:5-8 (Marusak Cross).

[98] Oncor/AEPTX Ex. 10A.

[99] *Id.*

[100] Tr. at 59:19-60:1; *id.*

[101] Oncor/AEPTX Ex. 10A.

[102] *See* Tr. at 60:17-23 (Peppard Cross).

[103] *Id.* at 59:1-18 (Peppard Cross).

[104] Plains Pipeline Ex. 1 at 7:-13-8:7, 8:19-25 (Midgley Direct).

pipelines, and not at a 90-degree angle.[105] Utilizing links B2-B3 eliminates these crossings.[106] While links B2-B3 as currently proposed cross a natural gas pipeline that runs diagonally across the west side of Plains' property, this crossing of a single pipeline is favorable to the multiple pipeline crossings associated with links B1-C3.[107] Further, Plains' witness has offered testimony regarding the difficulties of crossing the Plains pipelines,[108] whereas there is no evidence of specific impacts to the natural gas line depicted on the engineering constraints mapping in this case. Staff witness Mr. Bautista confirmed that he does not consider Route 41 (B1-C3) to perform better than Route 320 and B2-B3 on this issue.[109]

Thus, the record evidence shows that, of the competing departures, links B2-B3 perform better as to engineering constraints.[110]

8. *Cost*: B2-B3 reduces cost by approximately $1.6 million.

Links B2-B3 minimize length and cost, and thus outperform links B1-C3 as to this factor.[111] The competing B1-C3 departure increases length by 6,148 feet, and increases the estimated cost by approximately $1.6 million.[112] Table 1 summarizes the differences in length and cost between the two competing departures and B2-B3's superior performance.[113]

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[105] Oncor/AEPTX Ex. 10A; *see* **Figure 1**, supra.

[106] Oncor/AEPTX Ex. 10A.

[107] *See* Tr. at 57:11-58:11 (Peppard Cross); Tr. at 82:13-21 (Perkins Cross).

[108] *See* Plains Pipeline Ex. 1 at 7:-13-10:3 (Midgley Direct).

[109] Tr. at 118:24-119:10 (Bautista Cross).

[110] *See* 16 TAC § 25.101(b)(3)(B).

[111] *See* 16 TAC § 25.101(b)(3)(B).

[112] *See* Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4, E-30 (lengths), Attach. 3 at 1, 3 (costs).

[113] *Id.*, Attach. 3 at 1, 3.

Table 1: Lengths and Costs

Route (departure links)	**Length [ft]**	**Estimated Cost**[114]
Route 320 (links B2-B3)	235,181	$98.22 million
Route 41 (links B1-C3)	241,329	$99.818 million
Increased length/cost of B1-C3 over B2-B3	**6,148**	**$1.598 million**

9. *Moderation of Impact on Affected Community and Landowners*: B2-B3 has far less negative impact on Plains' property than B1-C3.

Plains Pipeline is the record landowner of Tract Nos. 490 and 492.[115] Due to its proximity to the Sand Lake switching station, Plains' property will be crossed by the proposed line, regardless of which departure path is selected.[116] However, as set forth in Sections I.B, I.E.1, and I.E.7, *supra*, links B2-B3 have less negative impact on Plains' property than links B1-C3, and this, along with their reduced cost, weighs in favor of their selection.

10. *Compatible Rights-of-Way*: B2-B3 better parallels compatible rights-of-way.

As shown on **Figure 1**, *supra*, both link B2 and competing link B1 (along with link A) cut across and bisect Plains' property without following the property boundary.[117] Until these links get to the roadways, neither follows property lines.[118] Also shown on **Figure 1**, is that Plains' property is already burdened with two other existing transmission lines that similarly cut

[114] Values are exclusive of substation facilities costs and do not reflect intervenor-proposed modifications.

[115] Oncor/AEPTX Ex. 1, Attach. 14 at 5; Oncor/AEPTX Ex. 10A; *see also* **Figure 1**, supra.

[116] Oncor/AEPTX Ex. 10A; *see also* **Figure 1**, supra.

[117] Oncor/AEPTX Ex. 10A.

[118] Tr. at 53:16-25 (Marusak Cross) (testifying that when he designed link A, as well as competing links B1 and B2, he was not aware that Plains owned both tract nos. 490 and 492, and that none of those links, until they get to the roadways, follow property lines).

across and bisect its property diagonally and horizontally, without following the property boundary.[119] Neither link B2 nor link B1 parallels these existing transmission lines.[120]

Of the two competing options, both of which cut across Plains' property, link B2 (B2-B3) performs better at paralleling compatible rights-of-way. Link B2 reduces the length of un-paralleling line cutting across Plains' property.[121] Unlike for link B2, the negative effects of link B1's failure to parallel Plains' property boundary is compounded by its interaction with the two existing transmission lines on Plains' property to fragment Plains' property and create three transmission-line-encircled pockets.[122] In these B1-fragmented areas of Plains' property, Plains would have to operate within pockets that are significantly narrowed by the transmission line rights-of-way.[123] Further, Link B1 parallels Plains' pipelines for approximately half one mile, and length parallel to pipelines is not considered length parallel to compatible rights-of-way.[124] In addition, B2-B3 is over a mile shorter than B1-C3.[125] Staff witness Mr. Bautista confirmed that he does not consider Route 41 (B1-C3) to perform better than Route 320 and B2-B3 as to

[119] Oncor/AEPTX Ex. 10A.

[120] *Id.*

[121] *See id.*

[122] *See* Tr. at 55:5-56:23 (Peppard Cross) (describing the pockets); Oncor/AEPTX Ex. 10A.

[123] Tr. at 55:5-56:23 (Peppard Cross)

[124] *See* Plains Pipeline Ex. 1 at 10:12-18 (Midgley Direct); Oncor/AEPTX Ex. 11 at 3:24-26 (Marusak Rebuttal); Oncor/AEPTX Ex. 1, Attach. 1 (App. E).

[125] *See* Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4, E-30.

this factor.[126] Therefore, of the competing options, B2-B3 performs better as to compatible rights-of-way.[127]

11. *Prudent Avoidance*: B2-B3 and B1-C3 perform similarly.

The B2-B3 departure performs similarly to the B1-C3 departure for the factor of prudent avoidance.[128] 16 TAC § 25.101 defines prudent avoidance as "the limiting of exposures to electric and magnetic fields that can be avoided with reasonable investments of money and effort." Applicants and Staff have confirmed that all proposed routes comply with the policy of prudent avoidance.[129]

While B1-C3 avoids all the structures that are shown in the picture for the man camp along link B2 (see **Figure 3**, *supra*)—it only does so at an increased cost of approximately $1.6 million.[130] As both Ms. Perkins and Mr. Marusak testified, the Commission's policy of prudent avoidance "does not mean that a proposed transmission line must avoid habitable structures at all costs, but that reasonable alternatives should be considered."[131] "Exposure" is the heart of a prudent avoidance assessment and is not to be confused with habitable structure count—a proxy

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[126] Tr. at 118:24-119:10 (Bautista Cross).

[127] *See* 16 TAC § 25.101(b)(3)(B)(i)-(iii).

[128] *See id.* § 25.101(a)(4), (b)(3)(B)(iv).

[129] Tr. at 10:17-22 (Perkins Cross), 122:3-8 (Bautista Cross); Oncor/AEPTX Ex. 7 at 11:23-27 (Perkins Direct) ("Yes, all of the alternative routes proposed comply with the Commission's policy of prudent avoidance."); Direct Testimony of Russel J. Marusak, Oncor/AEPTX Ex. 5 at 12:13-16 ("All of the 408 alternative routes comply with . . . the policy of prudent avoidance."); *see* Staff Ex. 1 at 32:11-14, 33:19-23 (Bautista Direct).

[130] *See* Oncor/AEPTX Ex. 13 at 4:9-23 (Perkins Rebuttal) ("Route 320 directly affects 38 habitable structures, whereas Route 41 direct affects 3 habitable structures, but Route 41 is estimated to cost approximately $1.6 million more than Route 320.").

[131] Oncor/AEPTX Ex. 7 at 11:12-2 (Perkins Direct); Direct Testimony of Russel J. Marusak, Oncor/AEPTX Ex. 5 at 10:16-26 (similar statement); *see* 16 TAC § 25.101(a)(4).

of a proxy, and one that should not be a dominant factor in selecting among the supported routes here.[132]

Here, links B2-B3 are over a mile shorter than links B1-C3.[133] The reduced length of line weighs in favor of the conclusion that B2-B3 reduces exposure and better complies with prudent avoidance.[134] As to habitable structure count (see also Section I.C, *supra*), Applicants' expert Ms. Perkins considered the nature, location, and character of the counted structures; considered costs; and ultimately concluded the B2-B3 departure (Route 320) was superior to the B1-C3 departure (Route 41).[135] No other witness who based his different opinion on habitable structure count reviewed the specific nature of the structures involved.[136] There is more to consideration of habitable structures than a simple counting of structures.[137] When the individual characteristics of the "habitable structures" counted for link B2 are examined—instead of just

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[132] 16 TAC § 25.101(a)(4); *see also* Plains Pipeline Ex. 3 at 1 (*Application of Sharyland Utilities, L.P. to Amend a Certificate of Convenience and Necessity for the Stiles to Coates 138-kV Transmission Line in Reagan County*, Docket No. 46726, Memorandum from Chairman Walker at 1 (Sept. 27, 2017) (recommending striking Finding of Fact No. 104 from the proposal for decision, which had confused exposure with habitable structure count, and replacing it with finding that tracked prudent avoidance's definition); Docket No. 46726, Order at 13 (Sept. 9, 2017) (adopting Finding of Fact No. 104 as recommended in the Chairman's memorandum).

[133] Oncor/AEPTX Ex. 1, Attach. 3 at 1, 3 (B2-B3 is 6,148 feet shorter than B1-C3); *see* **Table 1**, *supra*;

[134] *See* 16 TAC § 25.101(a)(4); *see also* Staff Ex. 2 at 31:5-7, 32:4-9 (Bautista Direct) (referring to length of line in discussing how exposure can be limited).

[135] Oncor/AEPTX Ex. 13 at 3:13-26, 4:9-23 (Perkins Rebuttal) (continuing to support Route 320, which uses links B2-B3, as the best meets route over Route 41, which differs only in its use of links B1-C3 instead of B2-B3, and considering habitable structure count, the nature of the structures, and cost).

[136] Tr. at 122:21-123:4 (Bautista Cross) (confirming he treated all habitable structures the same and did not consider the nature or characteristics of the structures).

[137] 16 TAC § 25.101(a)(4); *see* Plains Pipeline Ex. 3 at 1 (Chairman Walker memorandum in Docket No. 46726). *see also* Tr. at 67:11-22 (Perkins Cross) (confirming that "complying with the policy of prudent avoidance is more than just a pure habitable structure count"); Oncor/AEPTX Ex. 7 at 11:12-2 (Perkins Direct) ("My understanding of the Commission's policy of prudent avoidance is that the process of routing a proposed transmission line should include consideration of routing options that will reasonably avoid population centers and other locations where people gather. This does not mean that a proposed transmission line must avoid habitable structures at all costs, but that reasonable alternatives should be considered."); Oncor/AEPTX Ex. 5 at 10:16-26 (Marusak Direct) (similar statement).

"count"—it is clear that there is no meaningful difference between the B2-B3 departure and the B1-C3 departure as to the factor of prudent avoidance.[138]

F. Preliminary Order Issue #5: Are there alternative routes or facilities configurations that would have a less negative impact on landowners? What would be the incremental cost of those routes?

Plains Pipeline is in discussions with Oncor regarding modifications solely on Plains property as shown in this proceeding. The depiction of those proposed modifications are shown in **Figure 4** above. Based on the fact that these modifications result in a shorter line, increased distance from habitable structures that are potentially present, and increased paralleling of compatible right-of-way, Plains Pipeline requests that these modifications be considered.

G. Preliminary Order Issue #6: If alternative routes or facility configurations are considered due to individual landowner preference: a) Have the affected landowners made adequate contributions to offset any additional costs associated with the accommodations? b) Have the accommodations to landowners diminished the electric efficiency of the line or reliability?

To Plains' knowledge, no such accommodations have been requested.

II. TEXAS PARKS AND WILDLIFE DEPARTMENT:

Use of links B2-B3, and selection of Route 320 or Route 325, is consistent with TWPD's recommendation. The route recommended by TPWD utilizes links B2-B3.[139] Applicants and Staff confirmed that the proposed project will not present a significant negative impact to environmental integrity.[140] TWPD did not express any specific concerns with either of

[138] *See* 16 TAC § 25.101(a)(4).

[139] Staff Ex. 2 (Attach. DB-2) at 40-41 (TWPD Letter to Karen Hubbard).

[140] Staff Ex. 2 at 22:18-24:3 (Bautista Direct); *see* Oncor/AEPTX Ex. 12 at 12:28-20:2 (Peppard Rebuttal).

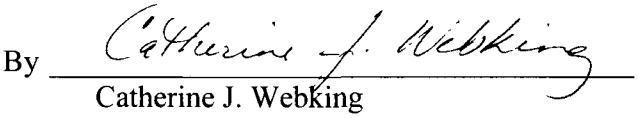
supported routes Route 320 or Route 325.[141] Thus, selection of either of Route 320 or Route 325, with or without modifications, is consistent with TWPD's recommendation.[142]

III. CONCLUSION

For the foregoing reasons, Plains respectfully requests that the Administrative Law Judges recommend approval of one of the supported routes that utilizes links B2-B3, either Route 320 or Route 325 (with or without modification as proposed by Concho and Oxy), and that the Commission adopt that recommendation.

Respectfully submitted,

SCOTT DOUGLASS & McCONNICO LLP
303 Colorado Street, Suite 2400
Austin, Texas 78701
512.495.6300
512.495.6399 Fax

By 

Catherine J. Webking
State Bar No. 21050055
Stephanie Kover
State Bar No. 24102042

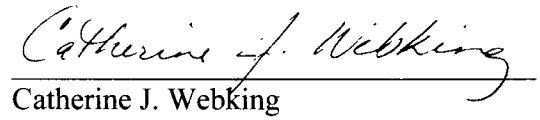
ATTORNEYS FOR
PLAINS MARKETING, L.P. AND
PLAINS PIPELINE, L.P.

[141] Staff Ex. 2 (Attach. DB-2).

[142] TPWD concluded that Route 324 would minimize impact to fish and wildlife, but neither the Applicants nor any other intervenor supports Route 324 as the route that best meets the factors set forth in PURA § 37.056(c) and 16 TAC § 25.101(b)(3)(B). And the evidence shows that Route 324 performs worse than other supported routes upon a holistic consideration of the factors. Oncor/AEPTX Ex. 7 at 4:24-5:5 (Perkins Rebuttal). For example, when compared to Route 320, the route Applicants concluded to be the best meets route, Route 324 is estimated to be longer and cost over $7 million more. *Id.*; Oncor/AEPTX Ex. 1, Attach. 1 (App. E) at E-4, E-30, Attach. 3 at 3.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served in accordance with the governing procedural orders to all parties of record in this proceeding on March 5, 2019.



Catherine J. Webking